

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS MCALLEN
DIVISION

United States District Court
Southern District Of Texas
FILED

APR 21 2020

UNITED STATES OF AMERICA

vs.

ROGELIO RAMOS JR.

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David J. Bradley, Clerk

CRIMINAL NO.: 7:17-CR-00128

EMERGENCY MOTION FOR RELEASE - DEFENDANT ROGELIO RAMOS, JR.

COMES NOW, ROGELIO RAMOS JR., Defendant in the above-mentioned cause, appearing pro se, and submits the following Motion for Release filed in this case, and hereby states the following:

I.

A. Release Due to Global Pandemic and Health Concerns

Attorney General William Barr has declared a state of emergency for the federal prison system, allowing officials to permit the early release of convicted prisoners to home confinement due to the current global pandemic caused by COVID-19—which is rapidly spreading throughout the federal and state justice systems. Further, Barr has urged the Federal Bureau of Prisons to release prisoners who are not a threat to the public and who are particularly vulnerable to COVID-19

Defendant is forty (40) years old. Given his age, Defendant could face severe infection of the virus, especially if he has underlying conditions of which he is unaware—such as high blood pressure. With the current spread of COVID-19, Defendant's livelihood could potentially be in danger. Defendant is susceptible to the virus due to his confinement and his odds of contracting it may very well have increased due to his confinement. Given that Defendant is not a threat to the public and is particularly vulnerable to COVID-19, he is a prime candidate for release from confinement, as per the Attorney General's orders.

II.

B. Release Due to Fifth Circuit Judgement

Defendant was charged with, and found guilty of, Conspiracy to commit wire fraud in violation of 18 U.S.C. Sec. 1343 and 1349—a non-violent crime. Further, given Defendant's minimal criminal history—an arrest on January 2, 2000 for misdemeanor theft at the age of nineteen (19)—he is unlikely to reoffend and poses no risk to the community.

On May 16, 2017, Defendant was found guilty on one (1) count of a single-count Indictment. On December 14, 2017, Defendant was committed to the custody of the United States Bureau of Prisons to be imprisoned for a total term of ninety (90) months. On January 24, 2020, the United States Court of Appeals for the Fifth Circuit issued a judgment VACATING and REMANDING Defendant's cause to the District Court for a new trial. As of the submission of this motion, Defendant has been in custody for two (2) years, three (3) months, and about two (2) weeks—roughly one-third (1/3) of his original sentence.

In response, the Government filed a Petition Panel Rehearing on February 28, 2020. Appellate counsel for Defendant filed a Reply to the Government's Petition on March 11, 2020. The Fifth Circuit has not issued a decision on the Petition. As of the submission of this motion, the current orders of the Fifth Circuit have VACATED and REMANDED the Defendant's cause to the District Court, entitling Defendant to a new trial. Accordingly, Defendant should be afforded release on his personal recognizance under 18 U.S.C. 3142.

Defendant is not submitting this motion for any frivolous purpose or to avoid justice being done, but for fear of a legitimate health concern. Defendant is respectfully moving this Honorable Court to release him to await a possible new trial, pending the Fifth Circuit's decision on the Government's Petition for Panel Rehearing.

III.

For the two (2) reasons set forth above, Defendant should be released until (1) the global pandemic due to COVID-19 has passed, or (2) the Fifth Circuit reverses its decision and finding in favor of the Government, whichever is later.

WHEREFORE PREMISES CONSIDERED, **ROGELIO RAMOS JR.**, Defendant prays that this Honorable Court grant his Motion for Release and any other relief the Defendant may be justly entitled to.

Respectfully submitted,

/S/ Rogelio Ramos, Jr.

Rogelio Ramos, Jr.
Pro Se Defendant

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that a true and correct copy of the foregoing Motion for Release has been forwarded to the U.S. Attorney's Office at 1701 W. Hwy. 83, 6th Floor, McAllen, Texas, 78501, on the 21st day of April, 2020.

/S/ Rogelio Ramos, Jr.

Rogelio Ramos, Jr.
Pro Se Defendant